



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Patent Office Board of Appeals

~~APPLICANT: M. A. DeNatale~~  
~~SERIAL NO: 09/900,096~~  
~~FILED: July 5, 2001~~  
~~FOR: SECURE CAGE FOR~~  
~~TELECOMMUNICATIONS FIBER~~  
~~OPTIC CABLE ASSEMBLED~~  
~~SPLICES~~

GAU: 2831  
EXAMINER: J. J. Lee  
St. Louis, Missouri  
Date: June 11, 2003  
DN: 7157

I hereby certify that this correspondence is being deposited with the  
U.S. Postal Service as first class mail in an envelope addressed to:  
Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on

*[Signature]*  
Attorney  
Date of Signature 6-11-03

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

RECEIVED  
JUN 23 2003  
TECHNOLOGY CENTER 2800

BRIEF FOR APPLICANT

06/18/2003 MDAHE1 00000038 09900096

01 FC:2402 160.00 OP

06/30/2003 DEVANS 00000005 040731 09900096

01 FC:2251 55.00 DA

Paul M. Denk  
Attorney for Applicant  
Pat. Office Reg. No. 22,598  
763 South New Ballas Road  
St. Louis, Missouri 63141  
(314) 872-8136

AF  
28318  
#11/610/  
Appeal  
Brief  
DEVANS  
6-27-03

## Table of Contents

	<u>Page</u>
Citations of Cases and Statutes .....	iii
I. Real parties in Interest .....	1
II. Related Appeals .....	2
III. Status of Claims .....	3
IV. Status of Amendments .....	4
V. Summary of the Invention .....	5
VI. Issues .....	7
VII. Grouping of Claims .....	8
VIII. Argument .....	9
IX. Conclusion .....	15
Appendix .....	1

## Citation of Cases and Statutes

### Page

#### Cases:

In re Geiger, 815 Fed. 2<sup>nd</sup> 686 (Fed. Cir. 1987)..... 10, 11, 13

#### Statutes:

35 U.S.C. § 103..... 7  
35 U.S.C. § 102..... 7

### **I. Real Parties In Interest**

The parties and interests in this particular application include just the inventor, Michael A. DeNatale. This application has not been assigned.

## **II. Related Appeals and Interferences**

There are no related appeals, or interference proceedings, pertaining to the subject matter of this patent application.

### **III. Status of Claims**

The examiner issued a final rejection on November 18, 2002. It was a final rejection of claims 1-19. There was no subsequent amendment after final filed in this application.

The Notice of Appeal filed on or about March 11, 2003.

At this time, the claims remaining in this application include the claims 1-19, as filed in this case. These are the claims upon which the Appeal Brief herein is filed.

#### **IV. Status of Amendments**

All of applicant's amendments, namely, Amendment A, was filed in this application in response to the examiner's initial office action. The final rejection issued on November 18, 2002. There were no amendments filed after final.

The Notice of Appeal was filed, and the brief is being submitted accordingly.

## **V. Summary of the Invention**

This invention relates to what is identified as a secure cage 1, formed of lightweight gauge material, such as aluminum, or perhaps even a polymer, and includes a pair of collapsible front screens 2 and 3, and side screens 4 and 5, as noted. These various screens are connected together along their length by means of a series of hinges, or the like. The structure of the cage is such that it can be arranged in an upright and erect position, when unfolded, and with its side panels, can be located around the splice boxes SB, down in a utility manhole, to provide for the type of security and sheltering required by the cable company, for their specific electrical or optic fiber boxes and junctions, that may be provided within the vicinity. As noted, a utility manhole, as underground, may have a plurality of companies using it for their various junctions, and each utility requires some security for their particular installation, so as to prevent unauthorized interference or manipulation by others.

Figs. 6 and 7 disclose the secure cage in a folded or collapsed position, so as to reduce its size, as during transit, storage, or when locating down through the manhole cover, but once it is in use, the cage can be opened, erected, to provide the type of coverage and security as previously explained.

Each of the side edges of the sidewalls incorporate hasp devices, as at 9 and 10, and which are furnished to allow for the secure cage to be connected to built-in fasteners in the sidewall of the manhole, to secure the cage in place, and to generally prevent its unauthorized removal, or opening, as required. Any type of lock means may be used for this purpose.

In the preferred embodiment, there are four sections for the secure cage, and those sections generally will have a size that allows for its facile handling, that may provide for its easy folding, to a collapsed position, for shipment, transit, or locating. The panels are generally shown in reference numbers 2-5.

The general purpose of the secure cage 1, as explained, is to separate the space down in the manhole into distinct areas, such as can be noted in Figs. 2



and 4. Generally, in these areas, there will be various splice boxes, as at SB, as noted, and these are the boxes in which the junctions of the cables are furnished, and need to be sheltered and protected, against unauthorized tampering. The junction boxes may include the fiber optic cables C that enter within the manhole area, and it is these types of facilities, such as the cable centers, and the splice boxes, that are protected through the usage of this invention.

Any type of a padlock, or other locking means, can be applied to the latch mechanism 1, in order to lock the cage enclosure, as during non usage.

## **VI. Issues**

Essentially, in the final rejection, the examiner rejected claims 1-19 of the application. In the final rejection, the examiner only rejected claim 1, under § 102, and claims 2, 3, and 12-19 under § 103.

Finally, the third issue whether claims 4-11 and 19, are to be rejected under § 103, as unpatentable over Boer, in view of Norman, further in view of Laetsch, and further in view of Cucksey.

## VII. Grouping of Claims

There appear to be four groups of claims contained in the subject matter for this application.

*incorrect grouping  
of claims.*

The first group of claims would appear to comprise the structure of the secure cage as identified in claims 1-5.

The second group of claims would appear to be the specific construction for the secure cage, formed of paneling, as set forth in claims 6-11.

Claims 12 and 13 add a further dimension to the secure cage, in explaining how its sides, as through angles, secure to the side of the manhole structure in which the cage is located.

Finally, claims 14-19 identify specific structure for the secure cage for protecting cables down in a manhole opening.

*Args directed  
to the final rejection*

## **VIII. Argument**

### **Claims 1-5:**

The examiner rejected claim 1 upon the grounds that it is anticipated by the Boer reference. Boer shows a hinged display system, which appears to be assembled from telescopic components, for use for providing a portable display of various panels that can provide for relative rotation, of the panels, during their structured usage. Initially, a display apparatus is not what applicant seeks to patent. The applicant's device is a secure cage, for a cable securing structure, for use in the telecommunications field, the cage being formed of a series of panels, which may be folded and collapsed as during nonuse, or presents hingedly foldable front panels that are capable of being opened, or locked, during usage. The particular feature is not shown or described in the Boer reference.

Hence, since the examiner's only rejection of claim 1, which is of the group 1 of claims of this application, was done over the Boer reference, and since Boer does not disclose structure that can be applied or fabricated in the manner of the secure cage as defined in claim 1, nor function in the same manner, it would appear that anticipation is not present. The front panels of Boer just do not open or lock, as set forth in claim 1 of this application.

The examiner also rejected claims 2 and 3, in addition to claims 4 and 5, over the prior references to Boer, with respect to claim 2 and 3, and the references to Boer, Norman, Laetsch, and Cucksey, as with respect to claims 4 and 5.

Initially, as previously reviewed, with respect to these claims in group 1, Boer does not show any type of a secure cage, much less one that has front panels that are pivotally attached and capable of being locked together, in the structure of its secure cage. Boer just does not show such structure. Norman shows an auxiliary fold-out room, and it may have rear panels 190 and 200, which are held by hinges to the side panels 120 and 140, and may even show a slide bolt 240, for closing the rear panels from interior of the room, such a

structure still does not anticipate a collapsible type of cage, that can be placed around a cable box, or junction area, and secured into position, and locked from its outside, or which can be fully collapsed or removed, in the manner as described in claims 2 and 3, when the secure cage of this invention that is provide within a manhole structure. Nothing is suggested in Norman, nor the protector of Laetsch, that would provide the type of structural components that form the secure cage as identified in claims 2 and 3 of this application. And, as the examiner knows, obviousness cannot be established by combining teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting that combination. See the case of *In re Geiger*, 815 Fed. 2<sup>nd</sup> 686 (Fed Cert. 1987).

The examiner also rejected claims 4 and 5, under the obviousness standard, in view of the prior art as cited above. Claims 4 and 5 simply provide that there are a series of perforations provided within select panels to provide ventilation within the structure, and that the secure cage is generally provided for protecting the spliced dedicated cables for an individual customer. With respect to claim 4, Boer, even if it should be modified by Norman or Laetsch, or even have perforations put into it, should they be modified in view of each other, as also, in the manner as described in Cucksey, still does not provide a means for ventilating cables within a secure cage, of the type as defined in claims 1 and 4. In addition, there is nothing in any of the prior art that describes a structure for a secure cage, as identified in claim 5, to provide for protection of spliced dedicated cables for individual customers. Hence, it is just not seen how any of these four prior art references, as applied by the examiner, suggests the type of structure of claims 1, 4 and 5, for this application.

Applicant has already reviewed the Boer reference. Norman does not show two front panels pivotally attached to one another in addition to two side panels, where the front panels are capable of being locked into a protective configuration, as required by the subject claims. It also appears that Laetsch, showing a repeater housing that uses thermal sleeves, somehow can be used to

teach the use of caged protectors, in a manhole structure, is a stretch. All Laetsch states is that his electrical dome can be placed over a repeater that this may be located below ground facilities. That this somehow suggests that the structure of a secure cage, down in a manhole, is believed to argue more in favor of the existence of the invention, as in claim 5, rather than not.

**Claims 6-11:**

Claims 6-11 have been rejected by the examiner as unpatentable under § 103 over the Boer reference, and in view of Norman, Laetsch, and Cucksey.

Claims 6 and 7, in addition to claims 8-11, define the specific structure of the secure cage, as identified in previous claims, while claims 7-11 also define the various structures and dimensions for the designed cage. Basically, though, claim 6 defines that the front panels have sides, the front panels along the sides are hinged together, that all of the panels may be folded and collapsed into a substantially flattened condition, but that when the cage is opened, as during servicing of the cables, the panels may be moved, to allow a worker to obtain access to the cable box. Or, the panels can be erected, and locked into closure, to provide protection and securement for any cables installed therein.

All of the art cited by the examiner, has already been reviewed, and it would be redundant to analysis the same herein. But, basically, Boer just does not suggest, or in any disclose, any type of a secure cable collapsible structure for use down in a manhole, in the first instance. And, any way you want to modify Boer, with any of the prior art cited by the examiner, would still not provide an answering structure, or suggest the secure cage of applicant, as identified in these claims. The suggestion is just not present. *Supra*, In re Geiger.

Hence, it is not believed that any of this prior art, renders applicant's claimed subject matter in these identified claims, as obvious to one of ordinary skill in the art. The art just apparently has not given consideration to this type of device, for use down in manhole, in the first instance. It is believed that the

applicant deserves some recognition, in the form of patent protection, for conceiving of this type of idea, in the first instance.

**Claims 12 and 13:**

Claim 12 defines that the side panels of the secure cage that include angles, and the angles are capable of fastening to the side of the manhole. Claim 13 identifies similar structure with respect to each side panel, including an angle, which is capable of being fastened to the side of the manhole, with an edge of the opposite side panel is capable of being removably locked to the side of the manhole structure, during installation and erection of the secure cage. With respect to claim 12, it is really not seen where Norman shows the use of any type of an angle, for securing the back edge of a sidewall to a manhole structure, and in fact, Norman describes that its panels 190 and 200 are rear panels, and not front panels, in the first instance, or any type of a cage structure. The same can be said with respect to claim 13, where it defines that the angle is provided for fastening the side panel to the side of a manhole, and which may be removably locked thereto, during installation and erection of the secure cage. There is nothing in Norman that shows any type of angle for locking to a manhole wall, nor does Boer give any consideration to that type of structure.

Hence, it is not seen where Boer or Norman render applicant's claimed invention, in claims 12 and 13, obvious to one skilled in the art.

**Claims 14-19:**

Claims 14-19 define in greater detail the structure for the secure cage of this invention. It includes side panels, front panels, hingedly attached to one another, at least one attachment device for connecting the side panels to the manhole structure, pivotal latch connecting the front panels together, but yet which panels can be collapsed, to form a flat structure, as when removed as for non usage, or which can be erected, during application for securement purposes, as set forth in claim 14. Claim 15 defines the use of a hasp; claim 16 defines the

use of an angle; claim 17 defines the use of hinges; claim 18 defines the use of a flexible member; while claim 19 furnishes perforations within one of the front and side panels for ventilation purposes.

The prior art has already been reviewed in detail, relative to the claimed structure. Boer does not show any type of a secure cage, in the first instance. Hence, why would anyone want to modify the Boer reference, in the first instance, for his display system, to provide it with security structure, as the examiner states, when it is not considered or suggested in the usage of Boer, in the first instance. *Supra In re Geiger*. Boer is absent of any teaching or suggestion, or even incentive, for the usage of his structure for that purpose. Norman simply shows the use of hinges, for connecting a sidewall to walls of a utility enclosure, as can be noted. These are not angles, in the manner as described by applicant in claim 16. Laetsch, contrary to the examiner's comments, really doesn't show any type of a secure cage, of the type as set forth in claim 14, for use in a manhole, and for the purposes of applicant's invention. Thus, even if somehow Laetsch could be modified into the structure of Boer, which applicant does not succumb to that reasoning, it still would not provide answering structure to the claimed subject matter of this grouping of claims. There is no doubt that Cucksey discloses a hoistway door assembly, with perforations in it, but that is an entirely different structure from what applicant describes in the claims as his invention. Applicant does not claim to be the first to put perforations into a wall, for ventilation purposes.

Applicant's invention, in its claim 14, defines the use of a pivotal latch, attached to front panels adjacent their attachment to one another, where the pivotal latch may be latched when the front panels have been pivoted into place to form substantially a single plane, with such a pivotal latch, which when latched, provides retention of the two panels in alignment in substantially a single plane. This is set forth in claim 14. It is not seen where this type of structure, for a secure cage, for use down in a manhole, is really identified in any one of these prior art patents, including Norman or Boer. Neither Boer, or Cucksey, shows



pivotal front doors that can be latched together in a single plane, for a collapsible secure cage, in the first instance. Norman simply shows rear doors, or rear panels, with the slide latch interiorly, in his device.

### **IX. Conclusion**

It is submitted that reference to Boer does not provide anticipation of the claimed structure of claim 1 for this patent application.

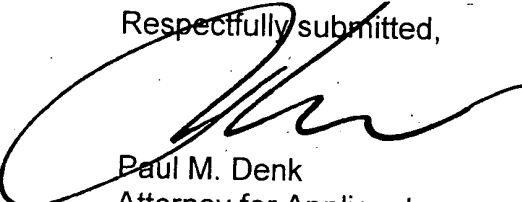
Furthermore, it is not seen how the prior references to Boer, Norman, Laetsch, nor Cucksey, would suggest or teach, or add any incentive to the modification of the Boer structure, to come up with applicant's claimed structure, in the first instance, as set forth in claims 2-19, and which would render obvious this claimed subject matter to one skilled in the art.

It is believed that patentable subject matter is set forth in the various grouping of claims, as set forth in this application.

The Boards' review of these matters would be appreciated.

If any additional charges are due, please debit our deposit account No. 040731.

Respectfully submitted,



Paul M. Denk  
Attorney for Applicant;  
Pat. Off. Reg. No. 22,598  
763 South New Ballas Road  
St. Louis, Missouri 63141  
(314) 872-8136

PMD/ls